

## **REMARKS**

### **I. General**

The issues raised in the Office Action mailed August 2, 2005 in the instant application are as follows:

- The Office Action reminds Applicant of the proper language and form for an Abstract;
- Claims 11 and 12 are objected to for informalities;
- Claims 1-3 and 5-10 stand rejected under 35 U.S.C. § 102(b) as anticipated by Ishikura, which appears to be U.S. Pat. No. 5,558,405 (hereinafter *Ishikura*);
- Claims 1-12 stand rejected under 35 U.S.C. § 102(b) as anticipated by Carter, U.S. Pat. No. 5,797,412 (hereinafter *Carter*); and
- Claim 12 or claims 1-12 stand rejected under the judicially created doctrine of obviousness-type double patenting.

Applicant hereby traverses the outstanding rejections of the claims, and requests reconsideration and withdrawal of the outstanding rejections in light of the amendments and remarks contained herein. Claim 1 has been amended above for purposes of clarity. Claims 1-12 remain pending in this application.

### **II. The Abstract**

The present Office Action purports to remind Applicant of the proper language and format for an Abstract of the Disclosure. However, the Office Action does not point out a specific defect in the Abstract. The Abstract is 89 words in length and does not make use of legal phraseology, is clear and concise, and is believed to avoid using phrases that can be implied. Therefore, if the Examiner has a specific objection to the Abstract, Applicant respectfully requests that such objection be pointed out in a non-final Office Action so that Applicant may have a full and fair opportunity to address it.

### **III. Claim Objection**

Claims 11 and 12 are objected to for informalities. The Office Action suggests that various recitations of the phrase “‘L’ brackets” in claims 11 and 12 be replaced with “L-bracket.” Without conceding any defects in the claims, Applicant has amended the claims as suggested in the Office Action in the interest of expediting prosecution of the present application and for cosmetic purposes only. Thereby, Applicant respectfully asserts that the objections to claims 11 and 12 have been overcome.

### **IV. Double Patenting**

The Office Action indicates: “Claims 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Pat. No. 6,672,787.” Later in this rejection the Office Action discusses “claims 1-12 of the application.” Therefore Applicant believes that the Examiner intended to indicate that claims 1-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Pat. No. 6,672,787.

Regardless, Applicant respectfully points out that the present application is a divisional application of application Serial No. 10/080,168, which issued as U.S. Pat. No. 6,672,787 on January 6, 2004. Parent application Serial No. 10/080,168 was the subject of a Restriction Requirement dated December 31, 2002, which required election between claim groups I (claims 1-6), II (claims 7-10), III (claims 13-16) and IV (claims 11-12) of application Serial No. 10/080,168. An election, without transverse, was made to prosecute the claims of group I, claims 1-6, in application Serial No. 10/080,168.

As a result of the aforementioned restriction requirement in application Serial No. 10/080,168, the present application was filed as a divisional application of Serial No. 10/080,168, on January 2, 2004. Independent claim 1 of the present divisional application corresponds to independent claim 13 (of Group III, as defined by the Examiner) of parent application Serial No. 10/080,168. Claim 1 is the only independent claims in the present application.

Therefore, Applicant respectfully asserts that, under the provisions of 35 U.S.C. § 121, the obviousness-type double patenting rejection is improper. The third sentence of 35

U.S.C. § 121 prohibits the use of a patent issuing on an application with respect to which a requirement for restriction has been made, or on an application filed as a result of such a requirement, as a reference against any divisional application, if the divisional application is filed before the issuance of the patent. See M.P.E.P. § 804.01. Therefore, the double patenting rejection of claims 1-12 should be withdrawn.

**V. Rejections under 35 U.S.C. § 102(b)**

The Office Action, on page 3, states: “Claims 1-3 and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishikura et al, (US 5,797,412). Additionally, the Office Action, on page 4, states: “Claims 1-12 are rejected under 35 U.S.C. § 102(b) as being anticipated by Carter (US 5,797,412). Although the Office Action cites the same patent number in identifying each reference, Applicant believes the intended *Ishikura* reference is U.S. Pat. No. 5,558,405, and hereinafter will refer to U.S. Pat. No. 5,558,405 as *Ishikura*, while Carter, U.S. Pat. No. 5,797,412 will be referred to as *Carter*. Therefore, Applicant understands the Office Action as rejecting claims 1-3 and 5-10 under 35 U.S.C. § 102(b) as being anticipated by *Ishikura* and claims 1-12 as anticipated by *Carter*. Nevertheless, Applicant respectfully traverses these rejections for the reasons advanced below.

**The recited reference does not teach all claimed elements.**

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. § 2131. Moreover, in order for a reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he elements must be arranged as required by the claim,” see M.P.E.P. § 2131, citing *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim,” see M.P.E.P. § 2131, citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicant respectfully asserts that the rejection does not satisfy one or more of these requirements.

**A. Rejection of claims 1-3 and 5-10 as Anticipated by *Ishikura***

Independent claim 1 recites “a means for connecting said first mount bracket to said second bracket in at least two positions along a rotational axis” (emphasis added). As a

review of the “Summary of the Invention” of *Ishikura* indicates the protective frame formed by components 11, 2, 3 and 12 of *Ishikura* are intended to be disengaged to allow insertion and removal of a child from the seat. However, nothing in *Ishikura* would seem to teach that the protective frame would be joined in any other position other than that shown in Figure 1 of *Ishikura*. Therefore, Applicant respectfully asserts that *Ishikura* appears to fail to teach “a means for connecting said first mount bracket to said second bracket in at least two positions along a rotational axis,” as recited by claim 1.

Additionally, claim 1 recites “means for rotatably attaching a first mount bracket to a first assembly” and “means for rotatably attaching a second mount bracket to a second assembly.” The Office Action cites pole body 11 and joint components 2 and 3 as teaching the first mount bracket, and pole body 12 and retaining plate 33, as teaching the second mount bracket. Applicant respectfully asserts that neither of these groups of components are a mount bracket. *Ishikura* describes the pole bodies as making up a protective frame, see column 2, lines 22 and 23.

For at least the foregoing reasons, Applicant respectfully asserts that *Ishikura* fails to teach all elements of independent claim 1, particularly arranged as required by the claims and/or in as complete detail as recited by the claim. Therefore, independent claim 1 is patentable over the 35 U.S.C. § 102 rejection of record citing *Ishikura*. Furthermore, there are great differences between claim 1 and the art of record, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 2, 3, and 5 through 10 each ultimately depend from base independent claim 1, and thus each of claims 2, 3, and 5 through 10 inherits all elements of claim 1. Therefore, for at least the reasons advanced above in responding to the rejection of claim 1, each of claims 2, 3, and 5 through 10 sets forth features and elements not disclosed by *Ishikura*. Thus, Applicant respectfully asserts that at least for the above reasons claims 2, 3, and 5 through 10 are patentable over the 35 U.S.C. § 102 rejection of record employing *Ishikura*.

**B. Rejection of claims 1-12 as Anticipated by Carter**

Independent claim 1, as amended, recites: “a means for connecting said first mount bracket to said second bracket in at least two positions along a rotational axis.” The Office Action indicates that *Carter* teaches “a means 136 for connecting said first mount bracket to said second bracket in at least two positions along a rotational axis (Figures 6, 13, 14 and 16). However, a review of Figure 14 of *Carter* clearly shows that joint 16, shown in detail in Figure 16, which includes bolt 136, cannot rotate about an axis to provide a means for connecting a first mount bracket to a second bracket in at least two positions along that rotational axis. The joint at 16 can only be made at a point where the other joints shown in Figure 14 will allow the ends of the members joined in joint 16 to align and if there is more than one point where the members can align, those points would not be about a same axis of rotation.

Further, claim 1 recites: “a means for rotatably attaching a first mount bracket to a first assembly” and “a means for rotatably attaching a second mount bracket to a second assembly” (emphasis added). The Office Action indicates that *Carter* teaches “a means 67, 70 (Figure 6) for rotatably attaching a first mount bracket 54, 130 (Figure 16) to a first assembly 22 (Figure 13)” and “a means 67, 70 for rotatably attaching a second mount bracket 54, 130 to a second assembly 22.” Applicant respectfully asserts that a single one of legs 22 cannot be both a first and a second assembly, as claimed by claim 1. If the Office Action is meant to apply a single one of legs 22 as both the first and the second assembly of claim 1, then the Office Action is employing improper claim construction. However, if the Examiner intends to cite two separate ones of legs the 22 of *Carter*, Applicant respectfully requests that the Examiner clarify this in a non-final Office Action. As the current rejection of claims 1-12 as anticipated by *Carter* is unclear and the Examiner is charged to “clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise respond completely at the earliest opportunity,” M.P.E.P. §706.

For at least the foregoing reasons, Applicant respectfully asserts that *Carter* fails to teach all elements of independent claim 1, particularly arranged as required by the claims and/or in as complete detail as recited by the claim. Therefore, independent claim 1 is

patentable over the 35 U.S.C. § 102 rejection of record employing *Carter*. Furthermore, there are great differences between claim 1 and *Carter*, and a person of ordinary skill in the art considering the prior art would not find these differences obvious.

Claims 2 through 12 each ultimately depend from base independent claim 1, and thus inherits all elements of claim 1. Therefore, for at least the reasons advanced above in responding to the rejection of claim 1, each of claims 2 through 12 sets forth features and elements not disclosed by *Carter*. Thus, Applicant respectfully asserts that at least for the above reasons claims 2-12 are patentable over the 35 U.S.C. § 102 rejection of record employing *Carter*.

## **VI. Conclusion**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

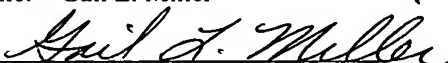
Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 08-2025, under Order No. 10017979-5, from which the undersigned is authorized to draw.

The Examiner is respectfully invited to call the below listed attorney if he can be of assistance in expediting prosecution of the present application.

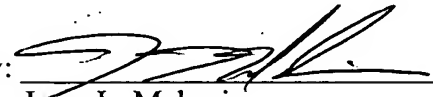
I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV 482725804US in an envelope addressed to: M/S Amendment, Commissioner for Patents, Alexandria, VA 22313.

Date of Deposit: October 31, 2005

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